

UNITED STATES DISTRICT COURT
for the

Doherty Kushimo

Petitioner

v.

Case No.

(Supplied by Clerk of Court)

Warden Spaulding

Federal Medical Center, Devens MA

Respondent

(name of warden or authorized person having custody of petitioner)

APR 29 2020
U.S. DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIAIN CLERK'S OFFICE
FILED

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Doherty Kushimo
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: Federal Medical Center, Devens MA
(b) Address: 42 Patton Road, Ayer Ma, 01432
3. (c) Your identification number: 09728-070
Are you currently being held on orders by:
 Federal authorities State authorities Other - explain: _____
4. Are you currently:
 A pretrial detainee (waiting for trial on criminal charges)
 Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: United States District Court
For The Western District Of Pennsylvania
(b) Docket number of criminal case: 1:14-cr-00012-DSC
(c) Date of sentencing: September 21, 2018
5. Being held on an immigration charge
 Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:
 How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

- Pretrial detention
 Immigration detention
 Detainer
 The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
 Disciplinary proceedings
 Other (explain): The living conditions at the prison is conducive to spreading the COVID-19 virus.

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: Federal Medical Center, Devens MA

(b) Docket number, case number, or opinion number: _____

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

(d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. First appeal

Did you appeal the decision, file a grievance, or seek an administrative remedy?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: _____

8. Second appeal

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes No

If "Yes," provide:

- (1) Name of court: _____
(2) Case number: _____
(3) Date of filing: _____
(4) Result: _____
(5) Date of result: _____
(6) Issues raised: _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes No

If "Yes," provide:

- (1) Name of court: _____
(2) Case number: _____
(3) Date of filing: _____
(4) Result: _____
(5) Date of result: _____
(6) Issues raised: _____

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

Yes No

If "Yes," provide:

- (a) Date you were taken into immigration custody: _____
(b) Date of the removal or reinstatement order: _____
(c) Did you file an appeal with the Board of Immigration Appeals?

Yes No

If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

Yes

No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes

No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: The living conditions at Fort Devens, is such that if infected with the spread of the COVID-19 virus, it could be fatal or cause irreparable harm, because of the inability of the inmates to social distance as recommended by the CDC and the World Health Organization.

(a) Supporting facts (Be brief. Do not cite cases or law.):

Inmates are assigned cubes with double bunks, one on top of the other
Inmates share communal shower(s) and toilet(s)
There is a limited supply of soap and hand sanitizer.

(b) Did you present Ground One in all appeals that were available to you?

Yes No

GROUND TWO: _____

(a) Supporting facts (Be brief. Do not cite cases or law.):

(b) Did you present Ground Two in all appeals that were available to you?

Yes No

GROUND THREE: _____

(a) Supporting facts (Be brief. Do not cite cases or law.):

(b) Did you present Ground Three in all appeals that were available to you?

Yes No

GROUND FOUR:

(a) Supporting facts (Be brief. Do not cite cases or law.):

(b) Did you present Ground Four in all appeals that were available to you?

Yes No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: I would like the court to transfer me to Home serve the remainder of my sentence on Home Confinement or any other appropriate remedy as the court sees fit.

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

April 21, 2020

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: April 21, 2020



[Handwritten signature of the petitioner, appearing to be 'R']

Signature of Petitioner

Signature of Attorney or other authorized person, if any